

Equal Employment Opportunity Comm.

§ 1641.8

under the ADA, simultaneous with the filing of the earlier section 503 complaint, and will be processed by OFCCP in accordance with the provisions of this section.

§ 1641.6 Processing of charges filed with EEOC.

(a) *ADA cause charges falling within the jurisdiction of section 503 that the Commission has declined to litigate.* ADA cause charges that also fall within the jurisdiction of section 503 and that the Commission has declined to litigate will be referred to OFCCP for review of the file and any administrative action deemed appropriate under section 503. Such charges will be considered to be complaints, simultaneously dual filed under section 503, solely for the purposes of OFCCP review and administrative action described in this paragraph.

(b) *ADA charges which also include allegations of failure to comply with section 503 affirmative action requirements.* ADA charges filed with EEOC, in which both allegations of discrimination under the ADA and violation of affirmative action requirements under section 503 are made, will be referred in their entirety to OFCCP for processing and resolution under section 503 and the ADA, unless the charges also include allegations of discrimination on the basis of race, color, religion, sex, national origin or age, or include allegations involving Priority List issues, or the charges are otherwise deemed of particular importance to EEOC's enforcement of the ADA. In such situations, EEOC will bifurcate the charges and retain the ADA component of the charges (and when applicable, the allegations pertaining to discrimination on the basis of race, color, religion, sex, national origin or age), referring the section 503 affirmative action component of the charges to OFCCP for processing and resolution under section 503. ADA charges which raise both discrimination issues under the ADA and section 503 affirmative action issues will be considered complaints, simultaneously dual filed under section 503, solely for the purposes of referral to OFCCP for processing, as described in this paragraph.

(c) EEOC shall transfer promptly to OFCCP a charge of disability-related employment discrimination over which

it does not have jurisdiction, but over which OFCCP may have jurisdiction. At the same time, EEOC shall notify the charging party and the contractor/respondent of the transfer, the reason for the transfer, the location of the OFCCP office to which the charge was transferred and that the date EEOC received the charge will be deemed the date it was received by OFCCP.

(d) Except as otherwise stated in paragraphs (a) and (b) of this section, individuals alleging violations of laws enforced by DOL and over which EEOC has no jurisdiction will be referred to DOL to file a complaint.

(e) If an individual who has already filed an ADA charge with EEOC subsequently attempts to file or files a section 503 complaint with OFCCP covering the same facts and issues, OFCCP will accept the complaint, but will adopt as a disposition of the complaint EEOC's resolution of the ADA charge (including EEOC's termination of proceedings upon its issuance of a notice of right-to-sue).

§ 1641.7 Review of this part.

This part shall be reviewed by the Chairman of the EEOC and the Director of OFCCP periodically, and as appropriate, to determine whether changes to the part are necessary or desirable, and whether the part should remain in effect.

§ 1641.8 Definitions.

As used in this part, the term:

ADA refers to title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*).

Affirmative action requirements refers to affirmative action requirements required by DOL pursuant to section 503 of the Rehabilitation Act of 1973, that go beyond the nondiscrimination requirements imposed by the ADA.

Chairman of the EEOC refers to the Chairman of the U.S. Equal Employment Opportunity Commission, or his or her designee.

Complaint/Charge means a section 503 complaint/ADA charge. The terms are used interchangeably.

Director of the Office of Federal Contract Compliance Programs refers to that individual or his or her designee.